

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

| | | |
|--------------------------------|---|-------------------------|
| NATHANIEL BEH, |) | |
| |) | |
| Plaintiff, |) | CIVIL ACTION |
| |) | FILE NO. _____ |
| v. |) | |
| |) | [Removed from the State |
| |) | Court of DeKalb County, |
| BRUCE DEAN and |) | Georgia, Civil Action |
| SOUTHERN TANK TRANSPORT, INC., |) | File No. 23A03502] |
| |) | |
| Defendants. |) | |

NOTICE OF REMOVAL

COMES NOW Southern Tank Transport, Inc. (“Southern Tank”), Defendant in the above-styled action, and files this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446 within the time prescribed by law, respectfully showing this Court as follows:

1.

On August 3, 2023, Plaintiff filed suit against Southern Tank and Bruce Dean in the State Court of DeKalb County, Georgia, styled as *Nathaniel Beh v. Bruce Dean & Southern Tank Transport, Inc.* and assigned Civil Action File No. 23A03502 (the “State Court Action”). True and accurate copies of all filings to date in the State Court Action are collectively attached hereto as **Exhibit “A.”**

2.

The Summons and Complaint in the State Court Action were served upon Southern Tank on August 10, 2023. This Notice of Removal is filed within thirty days after August 10, 2023, the date on which Southern Tank received the complaint and notice of the State Court Action. Thus, removal to this Court is timely under 28 U.S.C. § 1446(b).

3.

The United States District Court for the Northern District of Georgia, Atlanta Division, embraces DeKalb County, Georgia. Thus, removal to this Court is proper under 28 U.S.C. § 1441(a).

4.

Pursuant to 28 U.S.C. § 1446(d), promptly upon the filing of this Notice of Removal, Southern Tank will contemporaneously herewith give written notice to Plaintiff by notifying his attorney of record, M. Cordele Rolle, Esq., of The Cordele Firm, Inc., and will file a copy of this Notice of Removal with the Clerk of State Court of DeKalb County, which shall effectuate the removal.

5.

The United States District Court for the Northern District of Georgia, Atlanta Division, possesses diversity jurisdiction over this matter pursuant to 28 U.S.C. § 1332.

6.

At all relevant times, including the time of this removal, Plaintiff Nathaniel Beh has been domiciled in the State of Georgia. Plaintiff is a resident of the State of Georgia, and, upon information and belief, intends to remain in the State of Georgia indefinitely. Thus, Plaintiff is a citizen of the State of Georgia.

7.

At all relevant times, including the time of this removal, Defendant Bruce Dean has been domiciled in the State of Alabama. Bruce Dean is a resident of the State of Alabama, and, upon information and belief, intends to remain in the State of Alabama indefinitely. Thus, Bruce Dean is a citizen of the State of Alabama, and not a citizen of the State of Georgia.

8.

Southern Tank is a corporation organized and existing under the laws of the State of South Carolina, with its principal place of business in the State of South Carolina. Thus, Southern Tank is a citizen of the State of South Carolina, and not a

citizen of the State of Georgia. *See* 28 U.S.C. § 1332(c) (“[A] corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business[.]”)

9.

Accordingly, because Plaintiff and Defendants are citizens of different States, complete diversity exists between Plaintiff and Defendants in accordance with 28 U.S.C. § 1332(a)(1).

10.

In his Complaint, Plaintiff seeks to recover damages for personal injuries he allegedly sustained in a motor vehicle accident that occurred in DeKalb County, Georgia on or about April 21, 2019. (*See generally* Ex. A, Complaint). In Count III of the Complaint, titled “Claim of Damages for Personal Injury,” Plaintiff states that he “seeks damages in the amount of \$74,999.99.” (Ex. A, Complaint, ¶ 33). In Count IV of the Complaint, titled “Special Damages,” Plaintiff states that “Defendant is responsible for at least \$11,397.44 in medical and travel expenses” and that “Defendant is responsible for all special damages to be calculated that are derived as a result of the collision.” (Ex. A, Complaint, ¶¶ 36, 38). Plaintiff also seeks to recover attorney’s fees and expenses under O.C.G.A. § 13-6-11. (Ex. A, Complaint,

¶ 40). Finally, in the ad damnum clause of the Complaint, Plaintiff asserts that he seeks “recovery of all general damages of \$74,999.99” *and* “recovery of compensatory special damages,” i.e., \$11,397.44, *and* attorney’s fees and expenses, among other damages. (Ex. A, Complaint, pp. 8-9). Accordingly, as per the face of the Complaint, the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, as required by 28 U.S.C. § 1332(a).

11.

In light of the foregoing, this Court has subject matter jurisdiction over this matter in accordance with 28 U.S.C. § 1332(a).

12.

Venue is proper in this Court for purposes of removal under 28 U.S.C. § 1441(a). By filing this Notice of Removal, Southern Tank does not waive any of its jurisdictional objections or affirmative defenses.

13.

As of the date of the filing of this Notice of Removal, the record in the State Court Action does not reflect that Defendant Bruce Dean has been properly served with process. Once Mr. Dean is properly served, the undersigned attorneys expect that he will consent to this removal.

14.

Southern Tank reserves the right to amend or supplement this Notice of Removal or to present additional arguments in support of its entitlement to remove this case.

WHEREFORE, Southern Tank prays that this case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 11th day of September, 2023.

Respectfully submitted,

SWIFT, CURRIE, McGHEE & HIERS, LLP

/s/ *Laura N. Gable*

Stephen M. Schatz

Georgia Bar No. 628840

Laura N. Gable

Georgia Bar No. 208961

Attorneys for Defendant

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CERTIFICATE OF COMPLIANCE

By signature below, counsel certifies that the foregoing pleading was prepared in Times New Roman, 14-point font in compliance with Local Rule 5.1C.

This 11th day of September, 2023.

SWIFT, CURRIE, McGHEE & HIERS, LLP

/s/ Laura N. Gable

Stephen M. Schatz

Georgia Bar No. 628840

Laura N. Gable

Georgia Bar No. 208961

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CERTIFICATE OF SERVICE

This is to certify that this day I have electronically filed this ***NOTICE OF REMOVAL*** with the Clerk of Court using the CM/ECF (Pacer) System, which will automatically send e-mail notification of such filing to the following counsel of record:

M. Cordele Rolle
The Cordele Firm, Inc.
5815 Live Oak Pkwy, Suite A
Norcross, GA 30093
cordele@cordelefirm.com
Attorney for Plaintiff

This 11th day of September, 2023.

SWIFT, CURRIE, McGHEE & HIERS, LLP

/s/ Laura N. Gable
Stephen M. Schatz
Georgia Bar No. 628840
Laura N. Gable
Georgia Bar No. 208961
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